

REMARKS

Claims 9 and 15 are in the case. Claims 1-8 and 10-14 have been cancelled.

Claim 15 was objected to because of a missing “and” and was rejected under 35 U.S.C. 112 for failure to mention generating prices for each dining facility in the specification. The objection and rejection have been obviated by the current amendments to claim 15.

Claim 9 was rejected because of indefiniteness of the phrase “needs,” which should have been replaced by “preferences.” Claim 9 has been amended to replace the phrase “accessing the needs” with the phrase – accessing the preferences --, obviating this ground of rejection.

Claims 9 was rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter due to ambiguity as to whether software or a system is being claimed. This ground of rejection should be obviated by the current amendment to the preamble which now reads “An article comprising a computer readable medium having computer program code executable by a computer comprising a set of instructions for assessing institutional food service needs on a university campus according to the following steps.”

Claims 9 was finally rejected under 35 U.S.C. §102(b) as being anticipated by Halverson (U.S. Pub. No. 2002/0077843). This ground of rejection has been obviated by incorporating the limitations of cancelled claims 10, 11, and 13 into claim 9 by the current amendment.

Claims 10, 11, and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Halverson in view of Snyder et al. (U.S. Pub. No. 2008/0057482).

Halverson discloses an apparatus and method for mass producing a unique dining experience for each individual diner within a group of patrons. Each individual patron’s preferences are surveyed, and the results of the surveys are stored within the database. Staff and management of an establishment are also surveyed regarding various personal and facilities capabilities and assets. Based upon the preference survey results, a “*dining event*” is developed that groups patrons according to areas of agreement among surveys, while simultaneously tailoring unique “events or décor” based upon the preference survey results that are not common among the patrons. (See Abstract).

Applicant’s invention relates to a method and computer system for assessing food service needs for an institution such as a university. Data regarding campus architecture, traffic, physical barriers, current dining locations, services, schedules, and needs are received by the programmed

computer of the invention, the data is processed according to the computer program instructions, and schedules of menu items, staff, and service times for each dining facility is produced, maximizing a common thread between different groups. The method comprises the steps of gathering information about the campus, segmenting the campus and day, evaluating the needs of each segment against existing services, comparing the needs and opportunities to available services, and reporting the results. The present invention is for assisting with selection of menu items at various locations in a university or other multi-dining location setting, times and levels of service based on survey responses, whereas Halverson teaches unique dining events customized based on survey responses.

Snyder et al. does not supply the differences between the invention and Halverson. Snyder has nothing to do with dining facilities on a university campus, which is a separate and distinct art from Snyder's art of generating class schedules. Snyder only discloses a method for automatically producing a schedule of classes for an educational institution having a plurality of teachers, a plurality of students, and a curriculum. An input to a computer system includes student information comprising, for one or more of the plurality of students, an indication of his level of competence with respect to the educational material of one or more modules. The Snyder computer system preferably produces a schedule of classes for teaching the educational material of at least some of the modules responsive to the curriculum information and the student information. (See Abstract).

Attention is directed to Manual of Patent Examining Procedure sec. 2141, "Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103" and Tech Center 3600's publication entitled "Determining Obviousness under 35 USC 103 in view of KSR International Co. v. Teleflex TC3600 Business Methods January 2008" published at URL http://www.uspto.gov/web/offices/pac/dapp/opla/ksr/ksr_3600_bm_slideset.ppt, which comment on KSR International Co. v. Teleflex Inc. (KSR), 550 U.S. ___, 82 USPQ2d 1385 (2007), regarding the fact that "Objective evidence relevant to the issue of obviousness must be evaluated by Office personnel. Id. at 17-18, 148 USPQ at 467. Such evidence, sometimes referred to as "secondary considerations," may include evidence of commercial success, long-felt but unsolved needs * * *.

The present invention has been very successfully commercialized by the assignee, Aramark, by a team led by the inventors of the present invention, solving long-felt but previously unsolved needs, and has been recognized many times by experts in the field of the invention.

As set forth in the accompanying declaration of inventor Royale, “Aramark’s “MarketMatch” Program, which is described and claimed in the above-referenced application * * * has achieved commercial success and has solved long-felt needs, as evidenced by the published articles and testimonials which are attached as exhibits [to the Royale declaration].

Included among the exhibits are many testimonials, for example one from Julie A. Wiksten, Executive Director of Auxiliary Services, Southern Methodist University stating that “The MarketMATCH process conducted by ARAMARK has proven invaluable to this institution as we develop a multi-year strategic plan for SMU Dining Services. The process was more than just surveys, it was in-depth campus mapping studies that segmented the campus into distinct neighborhoods and studied the foot traffic patterns of our campus community to determine where new venues should be placed. It studied the share of spend analysis to determine purchasing behaviors. And, finally, the architectural design expertise helped determine the right types of renovations and styles of service for new venues. It is truly a unique way to gain critical information from so many different sources on campus and helps us make educated and informed decisions about the future of dining on our campus.”

Another example of a testimonial to the commercial success and solving of long-felt needs is one from Dr. Robert E. Witt, President, University of Alabama, stating “As the size of our student body continues to grow at The University of Alabama, on-campus dining has become an integral component in the quality of life our students expect. We have been pleased with the master plan that ARAMARK developed for our campus using its MarketMATCH process. Rather than relying solely on preference surveys, ARAMARK segmented our campus into neighborhoods, then conducted research within each one. As a result, we have a strategic portfolio of recommendations based on the needs of our current and future students.”

According to the examination guidelines for TC 3600 Business Methods patent applications following the KSR decision in 2007, secondary indicia of non-obviousness can overcome a prima facie obviousness type rejection under 35 U.S.C. 103 as set forth in the Final Rejection and should be fairly evaluated by the examiner. In the present case, after the scope and content of Halverson and Snyder are evaluated, the differences between the claimed

invention and said prior art are ascertained, and the level of ordinary skill in this art are resolved, the Graham factors such as the evidence of commercial success, recognition by others, and solution of long-felt needs must be evaluated and recognized. In the present case, the secondary indicia of non-obviousness are very strong. Reconsideration of the rejections under 35 U.S.C. 103 in view of the evidence being offered herewith and the arguments presented herein is respectfully requested.

All other grounds of rejection and objection have been addressed and obviated. Accordingly, it is believed that all of the claims are in condition for allowance. An early notice thereof is solicited.

Respectfully submitted,

/Michael B. Fein/

Michael B. Fein
Registration No. 25,333

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COZEN O'CONNOR, P.C.
Philadelphia, PA 19103-3508
Telephone: (215) 665-4622
Facsimile: (215) 701-2246